

SENATE BILL 288

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2004 Regular Session
4r1702
CF 4r0959

By: **Senators Garagiola, Britt, Conway, Currie, Exum, Forehand, Frosh,
Gladden, Grosfeld, Hollinger, Hughes, Jones, Kasemeyer, Kelley,
Kramer, Lawlah, McFadden, Pinsky, Ruben, and Teitelbaum**

Introduced and read first time: January 30, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Assault Weapons Ban of 2004**

3 FOR the purpose of designating certain firearms as assault weapons; prohibiting with
4 certain exceptions a person from transporting an assault weapon into the State
5 or possessing, selling, offering to sell, transferring, purchasing, or receiving an
6 assault weapon; requiring the Handgun Roster Board to compile and maintain a
7 roster of prohibited assault weapons; requiring the Board to have the roster of
8 prohibited assault weapons published in the Maryland Register at certain times
9 and to send copies of the roster to certain persons; designating assault long guns
10 and copycat weapons as types of assault weapons; authorizing certain licensed
11 firearms dealers to continue to possess, sell, offer for sale, or transfer assault
12 long guns or copycat weapons under certain circumstances; authorizing certain
13 persons to continue to possess assault long guns or copycat weapons under
14 certain circumstances; authorizing a procedure by which a person may petition
15 the Board to remove a copycat weapon from the roster of prohibited assault
16 weapons; requiring the Board to hold a hearing under certain circumstances;
17 making it a misdemeanor to use an assault long gun or a copycat weapon in the
18 commission of a felony or a crime of violence; providing certain penalties;
19 requiring that certain firearms be lawfully possessed on or before a certain date
20 in order for them to qualify as regulated firearms for certain purposes; defining
21 certain terms; providing for the effective date of this Act; and generally relating
22 to assault weapons.

23 BY repealing and reenacting, with amendments,
24 Article - Criminal Law
25 Section 4-301 through 4-306 to be under the amended subtitle "Subtitle 3.
26 Assault Weapons and Detachable Magazines"
27 Annotated Code of Maryland
28 (2002 Volume and 2003 Supplement)

29 BY adding to
30 Article - Criminal Law

1 Section 4-305 and 4-306
2 Annotated Code of Maryland
3 (2002 Volume and 2003 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Public Safety
6 Section 5-101(p)
7 Annotated Code of Maryland
8 (2003 Volume)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article - Criminal Law**

12 Subtitle 3. Assault [Pistols] WEAPONS and Detachable Magazines.

13 4-301.

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (B) "ASSAULT LONG GUN" MEANS ANY ASSAULT WEAPON LISTED UNDER §
17 5-101(P)(2)(II) OF THE PUBLIC SAFETY ARTICLE.

18 (C) [In this subtitle, "assault" "ASSAULT pistol" means any of the following
19 firearms [or a copy regardless of the producer or manufacturer]:

- 20 (1) AA Arms AP-9 semiautomatic pistol;
- 21 (2) Bushmaster semiautomatic pistol;
- 22 (3) Claridge HI-TEC semiautomatic pistol;
- 23 (4) D Max Industries semiautomatic pistol;
- 24 (5) Encom MK-IV, MP-9, or MP-45 semiautomatic pistol;
- 25 (6) Heckler and Koch semiautomatic SP-89 pistol;
- 26 (7) Holmes MP-83 semiautomatic pistol;
- 27 (8) Ingram MAC 10/11 semiautomatic pistol and variations including the
28 Partisan Avenger and the SWD Cobray;
- 29 (9) Intratec TEC-9/DC-9 semiautomatic pistol in any centerfire
30 variation;
- 31 (10) P.A.W.S. type semiautomatic pistol;

1 (11) Skorpion semiautomatic pistol;

2 (12) Spectre double action semiautomatic pistol (Sile, F.I.E., Mitchell);

3 (13) UZI semiautomatic pistol;

4 (14) Weaver Arms semiautomatic Nighthawk pistol; or

5 (15) Wilkinson semiautomatic "Linda" pistol.

6 (D) "ASSAULT WEAPON" MEANS:

7 (1) AN ASSAULT LONG GUN;

8 (2) AN ASSAULT PISTOL; OR

9 (3) A COPYCAT WEAPON.

10 (E) "BOARD" MEANS THE HANDGUN ROSTER BOARD ESTABLISHED UNDER §
11 5-302 OF THE PUBLIC SAFETY ARTICLE.

12 (F) (1) "COPYCAT WEAPON" MEANS:

13 (I) A SEMIAUTOMATIC, CENTERFIRE RIFLE THAT CAN ACCEPT A
14 DETACHABLE MAGAZINE AND ANY OF THE FOLLOWING:

15 1. A PISTOL GRIP THAT PROTRUDES CONSPICUOUSLY
16 BENEATH THE ACTION OF THE WEAPON;

17 2. A THUMBHOLE STOCK;

18 3. A FOLDING OR TELESCOPING STOCK;

19 4. A GRENADE LAUNCHER OR FLARE LAUNCHER;

20 5. A FLASH SUPPRESSOR; OR

21 6. A FORWARD PISTOL GRIP;

22 (II) A SEMIAUTOMATIC, CENTERFIRE RIFLE THAT HAS A FIXED
23 MAGAZINE WITH THE CAPACITY TO ACCEPT MORE THAN 10 ROUNDS;

24 (III) A SEMIAUTOMATIC, CENTERFIRE RIFLE THAT HAS AN OVERALL
25 LENGTH OF LESS THAN 30 INCHES;

26 (IV) A SEMIAUTOMATIC PISTOL THAT CAN ACCEPT A DETACHABLE
27 MAGAZINE AND ANY OF THE FOLLOWING:

28 1. A THREADED BARREL, CAPABLE OF ACCEPTING A FLASH
29 SUPPRESSOR, FORWARD HANDGRIP, OR SILENCER;

30 2. A SECOND HANDGRIP;

1 4-302.

2 This subtitle does not apply to:

3 (1) if acting within the scope of official business, personnel of the United
4 States government or a unit of that government, members of the armed forces of the
5 United States or of the National Guard, or law enforcement personnel of the State or
6 a local unit in the State;

7 (2) a firearm modified to render it permanently inoperative;

8 (3) purchases, sales, and transport to or by a licensed firearms dealer or
9 manufacturer who is:

10 (i) providing or servicing an assault [pistol] WEAPON or
11 detachable magazine for a law enforcement unit or for personnel exempted under
12 item (1) of this section; or

13 (ii) acting to sell or transfer an assault [pistol] WEAPON or
14 detachable magazine to a licensed firearm dealer in another state;

15 (4) organizations that are required or authorized by federal law
16 governing their specific business or activity to maintain assault [pistols] WEAPONS
17 and applicable ammunition and detachable magazines;

18 (5) the receipt of an assault [pistol] WEAPON or detachable magazine by
19 inheritance if the decedent lawfully possessed the assault [pistol] WEAPON; or

20 (6) the receipt of an assault [pistol] WEAPON or detachable magazine by
21 a personal representative of an estate for purposes of exercising the powers and
22 duties of a personal representative of an estate.

23 4-303.

24 (a) Except as provided in subsection (b) of this section, a person may not:

25 (1) transport an assault [pistol] WEAPON into the State; or

26 (2) possess, sell, offer to sell, transfer, purchase, or receive an assault
27 [pistol] WEAPON.

28 (b) (1) A person who lawfully possessed an assault pistol before June 1, 1994
29 and who registered the assault pistol with the Secretary of [the] State Police before
30 August 1, 1994 may continue to possess the assault pistol.

31 (2) A LICENSED FIREARMS DEALER MAY CONTINUE TO POSSESS, SELL,
32 OFFER FOR SALE, OR TRANSFER AN ASSAULT LONG GUN OR COPYCAT WEAPON THAT
33 THE LICENSED FIREARMS DEALER LAWFULLY POSSESSED ON OR BEFORE
34 SEPTEMBER 13, 2004.

1 (3) A PERSON WHO LAWFULLY POSSESSED AN ASSAULT LONG GUN OR
2 COPYCAT WEAPON BEFORE SEPTEMBER 13, 2004, AND WHO REGISTERS THE ASSAULT
3 LONG GUN OR COPYCAT WEAPON WITH THE SECRETARY OF STATE POLICE BEFORE
4 NOVEMBER 13, 2004, MAY CONTINUE TO POSSESS THE ASSAULT LONG GUN OR
5 COPYCAT WEAPON.

6 4-304.

7 A law enforcement unit may seize as contraband and dispose of according to
8 regulation an assault [pistol] WEAPON transported, sold, transferred, purchased,
9 received, or possessed in violation of this subtitle.

10 4-305.

11 (A) THE BOARD SHALL COMPILE AND MAINTAIN A ROSTER OF PROHIBITED
12 ASSAULT WEAPONS.

13 (B) BEGINNING NOT LATER THAN JULY 1, 2005, AND EVERY 6 MONTHS
14 THEREAFTER, THE BOARD SHALL HAVE THE ROSTER OF PROHIBITED ASSAULT
15 WEAPONS PUBLISHED IN THE MARYLAND REGISTER AND SHALL SEND A COPY OF
16 THE ROSTER TO ALL LICENSED FIREARMS DEALERS.

17 4-306.

18 (A) A PERSON MAY PETITION THE BOARD TO REMOVE A COPYCAT WEAPON
19 FROM THE ROSTER OF PROHIBITED ASSAULT WEAPONS IN ACCORDANCE WITH THIS
20 SECTION AND TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

21 (B) A PETITION SHALL BE SUBMITTED IN WRITING IN THE FORM THAT THE
22 BOARD REQUIRES.

23 (C) A PETITIONER HAS THE BURDEN OF PROVING TO THE BOARD THAT THE
24 COPYCAT WEAPON DOES NOT MEET THE DEFINITIONAL REQUIREMENTS OF §
25 4-301(F) OF THIS SUBTITLE.

26 (D) (1) WITHIN 45 DAYS AFTER RECEIPT OF A PETITION, THE BOARD MAY:

27 (I) DENY THE PETITION AND STATE THE REASONS FOR THE
28 DENIAL; OR

29 (II) APPROVE THE PETITION IF THE FIREARM IS DETERMINED BY
30 THE BOARD TO NOT QUALIFY AS A COPYCAT WEAPON, REMOVE THE FIREARM FROM
31 THE ROSTER OF PROHIBITED ASSAULT WEAPONS, AND HAVE PUBLISHED IN THE
32 MARYLAND REGISTER:

33 1. A DESCRIPTION OF THE FIREARM; AND

34 2. A NOTICE STATING THAT AN OBJECTION TO THE
35 REMOVAL OF THE FIREARM FROM THE ROSTER MUST BE FILED WITH THE BOARD
36 WITHIN 30 DAYS.

1 (2) IF THE BOARD DOES NOT TAKE ACTION TO APPROVE OR DENY THE
2 PETITION WITHIN 45 DAYS AFTER RECEIPT OF THE PETITION, THE PETITION SHALL
3 BE CONSIDERED DENIED.

4 (E) (1) IF A PETITION IS DENIED, THE BOARD SHALL NOTIFY THE
5 PETITIONER BY CERTIFIED MAIL.

6 (2) THE PETITIONER MAY REQUEST A HEARING BEFORE THE BOARD
7 WITHIN 15 DAYS AFTER THE DATE THAT THE DENIAL LETTER IS RECEIVED.

8 (3) WITHIN A REASONABLE TIME NOT EXCEEDING 90 DAYS AFTER
9 RECEIPT OF A REQUEST FOR A HEARING, THE BOARD SHALL HOLD A HEARING AND
10 ISSUE A WRITTEN FINAL DECISION.

11 [4-305.] 4-307.

12 (a) This section does not apply to a .22 caliber rifle with a tubular magazine.

13 (b) A person may not manufacture, sell, offer for sale, purchase, receive, or
14 transfer a detachable magazine that has a capacity of more than 20 rounds of
15 ammunition for a firearm.

16 [4-306.] 4-308.

17 (a) A person who violates this subtitle is guilty of a misdemeanor and on
18 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
19 \$5,000 or both.

20 (b) (1) A person who uses an assault pistol, or a magazine that has a
21 capacity of more than 20 rounds of ammunition, in the commission of a felony or a
22 crime of violence as defined in § 5-101 of the Public Safety Article is guilty of a
23 misdemeanor and on conviction, in addition to any other sentence imposed for the
24 felony or crime of violence, shall be sentenced under this subsection.

25 (2) (i) For a first violation, the person shall be sentenced to
26 imprisonment for not less than 5 years and not exceeding 20 years.

27 (ii) The court may not impose less than the minimum sentence of 5
28 years.

29 (iii) The mandatory minimum sentence of 5 years may not be
30 suspended.

31 (iv) Except as otherwise provided in § 4-305 of the Correctional
32 Services Article, the person is not eligible for parole in less than 5 years.

33 (3) (i) For each subsequent violation, the person shall be sentenced to
34 imprisonment for not less than 10 years and not exceeding 20 years.

35 (ii) The court may not impose less than the minimum sentence of
36 10 years.

1 (iii) A sentence imposed under this paragraph shall be consecutive
 2 to and not concurrent with any other sentence imposed for the felony or crime of
 3 violence.

4 (C) (1) A PERSON WHO USES AN ASSAULT LONG GUN OR A COPYCAT
 5 WEAPON IN THE COMMISSION OF A FELONY OR A CRIME OF VIOLENCE AS DEFINED
 6 IN § 5-101 OF THE PUBLIC SAFETY ARTICLE IS GUILTY OF A MISDEMEANOR AND ON
 7 CONVICTION, IN ADDITION TO ANY OTHER SENTENCE IMPOSED FOR THE FELONY OR
 8 CRIME OF VIOLENCE, SHALL BE SENTENCED UNDER THIS SUBSECTION.

9 (2) FOR A FIRST VIOLATION, THE PERSON SHALL BE SENTENCED TO
 10 IMPRISONMENT NOT EXCEEDING 20 YEARS.

11 (3) (I) FOR EACH SUBSEQUENT VIOLATION, THE PERSON SHALL BE
 12 SENTENCED TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

13 (II) A SENTENCE IMPOSED UNDER THIS PARAGRAPH SHALL BE
 14 CONSECUTIVE TO AND NOT CONCURRENT WITH ANY OTHER SENTENCE IMPOSED
 15 FOR THE FELONY OR CRIME OF VIOLENCE.

16 **Article - Public Safety**

17 5-101.

18 (p) "Regulated firearm" means:

19 (1) a handgun; or

20 (2) a firearm that:

21 (I) IS LAWFULLY POSSESSED BY A LICENSED FIREARMS DEALER
 22 ON OR BEFORE SEPTEMBER 13, 2004, AND WHICH MAY BE LAWFULLY POSSESSED,
 23 SOLD, OFFERED FOR SALE, OR TRANSFERRED BY THE LICENSED FIREARMS DEALER
 24 UNDER § 4-303 OF THE CRIMINAL LAW ARTICLE; AND

25 (II) is any of the following specific assault weapons [or their
 26 copies], regardless of which company produced and manufactured that assault
 27 weapon:

28 [(i)] 1. American Arms Spectre da Semiautomatic carbine;

29 [(ii)] 2. AK-47 in all forms;

30 [(iii)] 3. Algimec AGM-1 type semi-auto;

31 [(iv)] 4. AR 100 type semi-auto;

32 [(v)] 5. AR 180 type semi-auto;

33 [(vi)] 6. Argentine L.S.R. semi-auto;

- 1 [(vii)] 7. Australian Automatic Arms SAR type semi-auto;
- 2 [(viii)] 8. Auto-Ordnance Thompson M1 and 1927 semi-automatics;
- 3 [(ix)] 9. Barrett light .50 cal. semi-auto;
- 4 [(x)] 10. Beretta AR70 type semi-auto;
- 5 [(xi)] 11. Bushmaster semi-auto rifle;
- 6 [(xii)] 12. Calico models M-100 and M-900;
- 7 [(xiii)] 13. CIS SR 88 type semi-auto;
- 8 [(xiv)] 14. Claridge HI TEC C-9 carbines;
- 9 [(xv)] 15. Colt AR-15, CAR-15, and all imitations except Colt AR-15
10 Sporter H-BAR rifle;
- 11 [(xvi)] 16. Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and
12 K-2;
- 13 [(xvii)] 17. Dragunov Chinese made semi-auto;
- 14 [(xviii)] 18. Famas semi-auto (.223 caliber);
- 15 [(xix)] 19. Feather AT-9 semi-auto;
- 16 [(xx)] 20. FN LAR and FN FAL assault rifle;
- 17 [(xxi)] 21. FNC semi-auto type carbine;
- 18 [(xxii)] 22. F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;
- 19 [(xxiii)] 23. Steyr-AUG-SA semi-auto;
- 20 [(xxiv)] 24. Galil models AR and ARM semi-auto;
- 21 [(xxv)] 25. Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and
22 A3;
- 23 [(xxvi)] 26. Holmes model 88 shotgun;
- 24 [(xxvii)] 27. Avtomat Kalashnikov semiautomatic rifle in any
25 format;
- 26 [(xxviii)] 28. Manchester Arms "Commando" MK-45, MK-9;
- 27 [(xxix)] 29. Mandell TAC-1 semi-auto carbine;
- 28 [(xxx)] 30. Mossberg model 500 Bullpup assault shotgun;

- 1 [(xxxi)] 31. Sterling Mark 6;
- 2 [(xxxii)] 32. P.A.W.S. carbine;
- 3 [(xxxiii)] 33. Ruger mini-14 folding stock model (.223 caliber);
- 4 [(xxxiv)] 34. SIG 550/551 assault rifle (.223 caliber);
- 5 [(xxxv)] 35. SKS with detachable magazine;
- 6 [(xxxvi)] 36. AP-74 Commando type semi-auto;
- 7 [(xxxvii)] 37. Springfield Armory BM-59, SAR-48, G3, SAR-3,
8 M-21 sniper rifle, M1A, excluding the M1 Garand;
- 9 [(xxxviii)] 38. Street sweeper assault type shotgun;
- 10 [(xxxix)] 39. Striker 12 assault shotgun in all formats;
- 11 [(xl)] 40. Unique F11 semi-auto type;
- 12 [(xli)] 41. Daewoo USAS 12 semi-auto shotgun;
- 13 [(xl ii)] 42. UZI 9mm carbine or rifle;
- 14 [(xl iii)] 43. Valmet M-76 and M-78 semi-auto;
- 15 [(xl iv)] 44. Weaver Arms "Nighthawk" semi-auto carbine; or
- 16 [(xl v)] 45. Wilkinson Arms 9mm semi-auto "Terry".

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect September 13, 2004.